

SUPREME COURT  
OF BRITISH COLUMBIA  
VANCOUVER REGISTRY

APR 17 2012

S-122702

NO.  
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

AMANDA JONES

PLAINTIFF

AND:

DESIDERATA SERVICES INC. doing business as Bikram Yoga  
and  
JANE DOE

DEFENDANTS

**NOTICE OF CIVIL CLAIM**

(Name and  
address of  
each Plaintiff)

**Amanda Jones**

(Name and  
address of  
each Defendant)

**Desiderata Services Inc. doing business as Bikram Yoga**  
105 – 5300 No. 3 Road  
Richmond, BC V6X 2X9

**Jane Doe**  
c/o Bikram Yoga  
105 – 5300 No. 3 Road  
Richmond, BC V6X 2X9

**This action has been started by the plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

### **Time for Response to Civil Claim**

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order to the court, within that time.

### **CLAIM OF THE PLAINTIFF**

#### **Part 1: STATEMENT OF FACTS**

1. The Plaintiff is a lifeguard and fitness instructor and resides at in the City of Richmond, in the Province of British Columbia.
2. The Defendant, Desiderata Services Inc., doing business as Bikram Yoga (hereinafter referred to as "Bikram Yoga"), is a duly incorporated company under the laws of the Province of British Columbia, having its registered and records office located at 105 – 5300 No. 3 Road, in the City of Richmond, in the Province of British Columbia.
3. The Defendant, Bikram Yoga, operates a yoga studio at the said 105 – 5300 No. 3 Road, Richmond, BC
4. The Defendant, Jane Doe, is a yoga instructor and an employee, agent or contractor of the Defendant, Bikram Yoga.
5. On or about April 29, 2010, at approximately 9:30 a.m., the Plaintiff was participating in a yoga class at the yoga studio of the Defendant, Bikram Yoga. The class was being taught by the Defendant, Jane Doe. As the Plaintiff was doing a yoga pose, the Defendant, Jane Doe, physically manipulated the Plaintiff's right leg, causing injury to the Plaintiff.
6. The injury to the Plaintiff occurred because:  
the Defendant, Bikram Yoga,
  - (a) failed to properly supervise their instructor;
  - (b) failed to hire qualified instructors; and

- (c) failed to put policies in place with regard to instructors physically manipulating yoga students.

And because the Defendant, Jane Doe,

- (a) physically manipulated the Plaintiff's leg in a negligent manner that caused injury to the Plaintiff;
- (b) physically manipulated the Plaintiff's leg when she was not properly qualified or trained to do so; and
- (c) failed to warn the Plaintiff of the risks of physically manipulating her right leg.

7. As a result of the incident that occurred on April 29, 2010, the Plaintiff has suffered the following injuries, *inter alia*:
  - (a) injury to the right hip and leg.
8. The injuries suffered by the Plaintiff have caused and will continue to cause, pain, suffering, and loss of enjoyment of life.
9. As a result of her injuries, the Plaintiff has sustained loss of earnings, the particulars of which have not yet been fully determined. The Plaintiff will continue to suffer loss of income and other financial benefits in the future.
10. Further as a result of her injuries, the Plaintiff has incurred and will continue to incur special damages for medicine, medical treatment and other expenses, particulars of which have not yet been fully determined.
11. Further as a result of her injuries, the Plaintiff as a beneficiary under the *Medicare Protection Act*, R.S.B.C. 1996, Chapter 286, and amendments thereto, has received and continues to receive, health care services as defined in the *Health Care Costs Recovery Act*, S.B.C. 2008, Chapter 27, and amendments thereto.

## **Part 2: RELIEF SOUGHT**

1. The Plaintiff seeks from the Defendants, and each of them,
  - (a) An award of damages for:
    - i) Non-pecuniary loss.
    - ii) Loss of income.
    - iii) Special Damages for past and future expenses.
  - (b) Damages for recovery of health care services;
  - (c) Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, Chapter 79, and amendments thereto.

- (d) Costs of this action.

### **Part 3: LEGAL BASIS**

1. The Defendants, and each of them, and their employees, agents and servants, were and are responsible for the care and control of the condition of the premises and the activities conducted thereon pursuant to the *Occupier's Liability Act*, R.S.B.C. 1996, Chapter 337, and amendments thereto, and owe a duty of care to the Plaintiff pursuant to Section 3 of the Act.
2. The Defendants, and each of them, breached that duty as set out in paragraph 6 of Part 1.
3. The Defendant, Bikram Yoga, is vicariously liable for the actions of the Defendant, Jane Doe.
4. The Plaintiff has suffered injury and damages as a result of the breach of duty of care.

**Plaintiff's address for service:**

c/o Graham Taylor  
Taylor & Blair – Personal Injury Lawyers  
Suite 1607 – 805 West Broadway  
Vancouver, B.C. V5Z 1K1  
Telephone: 604-737-6900

Fax number address for service (if any):

604-737-6901

Email address for service (if any):

graham@taylorandblair.com

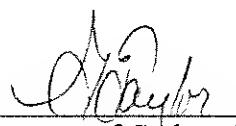
Place of trial:

Vancouver, B.C.

The address of the registry is:

The Law Courts, 800 Smithe Street  
Vancouver, B.C. V6Z 2E1

Dated: Monday, April 16, 2012.

  
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Signature of Graham Taylor,  
Lawyer for the Plaintiff

Rule 7-1(1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists

- (b)
  - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
  - (ii) all other documents to which the party intends to refer at trial, and serve the list on all parties of record.

## APPENDIX

*[The following information is provided for data collection purposes only and is of no legal effect.]*

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

A claim for damages arising out of an Occupier's Liability accident that occurred on April 29, 2010.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

*[Check one box below for the case type that best describes this case.]*

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

*[Check all boxes below that apply to this case.]*

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:** *Occupiers Liability Act, R.S.B.C. 1996, Chapter 337, and amendments thereto.*

*Health Care Costs Recovery Act, S.B.C. 2008, Chapter 27, and amendments thereto.*

*Court Order Interest Act, R.S.B.C. 1996, Chapter 79, and amendments thereto.*